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January 28, 2013

In re Merck & Co., Inc. Securities, Derivative & ERISA Litigation
The Consolidated Securities Action, No. 05-CV-02367

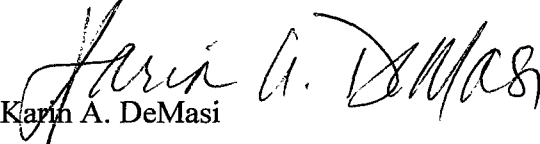
Dear Magistrate Judge Waldor:

We represent Defendants (other than Dr. Scolnick) in the above-captioned action. We respectfully submit this letter to clarify for the Court one issue with respect to the documents submitted at today's status conference for *in camera* review.

At the status conference, Defendants submitted to the Court for *in camera* review certain documents that were previously provided by Merck to the United States Attorney's Office for the District of Massachusetts ("USAO") pursuant to a limited waiver agreement, but that were not produced to Plaintiffs because such documents are not "otherwise responsive to Plaintiffs' Requests." (Ltr. Op. at 2, ECF No. 405.) Included within those documents are certain pages labeled "Removed for Privilege." Defendants wish to clarify for the Court that any such redactions were also on the documents as previously produced to the USAO; in other words, those pages represent privileged material that was never waived. Similar redactions also appear

in the responsive portions of the set produced to Plaintiffs, and we have likewise explained to Plaintiffs that such redactions also appeared on the documents as produced to the USAO. (*See* Dec. 22, 2012 Ltr. from K. DeMasi to A. Wierzbowski (attached as Ex. G to Pls.' Jan. 23 Ltr).)

Respectfully submitted,


Karin A. DeMasi

Honorable Cathy L. Waldor, U.S.M.J.
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